

REMARKS

The inventors appreciate the advice of the Examiner during our telephone conversation of 18th August.

Claims 1-15 are pending and rejected.

Claims 1, 2, 3, 4, 5, 7 and 15 are amended.

Claim 16 is new.

Drawings

Drawings are objected to. Additional drawings have been supplied to show all the features listed in the pending claims, as requested by the examiner – the item of luggage (fig 2), the walking stick (fig 3), smoke, and projectiles (fig 3), and the item of clothing (fig 4). The inventors think that the backpack in the original drawing may also suffice for “luggage”. Certain claims have been deleted or amended to remove certain elements (mostly the various animal types – lepine, ungulate etc) which now need not be shown in the drawings. The specification is amended to comport with the new drawings.

Claim Objections

Claim 1 has been amended as requested.

Claim Rejections – 35 USC sect. 102

Claims 1-5, 8 and 9 are rejected under sect. 102 by Clayton. A rejection under this section requires that each and every element be recited in the single reference. This is not the case here, particularly in view of the claim amendment. The device of the invention is “easily carried by a single user.” The device described by Clayton is not portable in any practical sense. It cannot be easily carried by a user. The device of Clayton appears to be fairly large and bulky, and certainly not the sort of device that a hiker could easily and conveniently carry. Claim 1 has been amended to state that “the device is easily carried by a single user.” Support is found at the bottom of Page 3: “The pop-up device may be carried by the hiker in any convenient manner. It

may be carried as a self-contained unit that could be placed in a back-pack or side pocket of a knapsack for easy access, or carried in the hand. The device may be incorporated into clothing or luggage or a any carried item.” The inventors feel that this distinction and claim amendment is sufficient to overcome the rejection under sect. 102 by Clayton.

Claim Rejections – 35 USC sect. 103

Claim 6 is rejected under sect. 103 over Clayton. In view of the above amendments the inventors believe that it would not have been obvious in view of Clayton to make a device for deterring an attack by an animal upon a user, wherein the device is easily carried by a single user. The Clayton device is clearly meant for placement at a fixed location in a field to scare birds and animals entering that field, not to deter a bear attacking a user on the move. In view of the amendments, the Clayton device does not disclose a structure with he features of the invention and does not teach or suggest a device that is portable and is easily carried by a single user.

Claim 7 is rejected under sect. 103 over Clayton in view of Asaro. Claim 7 has been amended but the limitations of this claim have been incorporated (separately) into currently amended claims 3 and 4. The examiner states that Clayton does not teach a device detachably associated with a knapsack, item or luggage, clothing or walking stick, but that Asaro does disclose these elements. In fact, Asaro only discloses that the device (an avalanche rescue marker system) may be affixed to the upper back of the jacket of the user (col. 1 lines 60-65, and fig1), not to a knapsack or luggage or walking stick. Amended claim 3 does not recite an item of clothing, and therefore should not be obvious in view of Asaro. Amended claim 4 does recite an item of clothing, but the inventors believe that the invention of claim 4 should not be obvious in view of Asaro for he reasons set out below.

The inventors feel that the device described by Asaro is non-analogous to the present invention and someone wanting to create an inflatable device as amended, fully detachable from the user, for scaring an attacking bear, would not look to Asaro for guidance. Asaro describes an avalanche rescue marker system comprising an inflatable ball that remains tethered to the user.

The structure and purpose of the device is completely different from the present invention. The disclosure does not mention scaring away of animals and does not mention detachment of the inflated ball from the user. Asaro, therefore, would not be used as inspiration for solving the current problem and it is only with hindsight that Asaro would be picked out to construct the current rejection.

Also, the invention as currently claimed would not be obvious in view of Clayton, Asaro and the other cited references because the devices of Clayton, Asaro and the others, alone or in combination, could not be used or adapted to produce the present device. Clayton does not disclose or suggest an inflatable figure easily carried by a single user, neither does Asaro. The device of Asaro is an avalanche rescue marker system which comprises a small inflatable ball that is and necessarily remains tethered to the user in order that the user may be located under snow (see abstract, last three lines and figure on front page). In contrast, the present invention as amended in claim 2 et seq is an easily portable device that comprises an inflatable figure wherein the device is fully detachable from the user. Asaro in combination with Clayton and others neither teaches nor suggests such a device. It would not have been reasonable to combine these two disclosures, and even if the two disclosures were combined, it would not have been obvious to make the presently claimed invention of claim 1 or 2 or the dependent claims.

Additionally, turning specifically to amended claim 3, neither Clayton, Asaro or any of the other disclosures describe or suggest the invention of claims 1 or 2 wherein the device is detachably associated with a knapsack, an item of luggage, or a walking-stick (claim 3), and therefore none of the references, alone or combined, would make the invention of claim 3 obvious.

The inventors feel that the rejections of claims 10, 11, 12, 13, 14 and 15 are rebutted for the same reasons as stated above, because even though the references disclose devices including animal smells, pyrotechnics, smoke, projectiles and sounds, none of the references, alone or combined, would make the inventions of claims 1, 2, and 3, from which all the others depend, obvious.

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CONCLUSION

In light of the above amendments and remarks, the inventors submit that the present application is in a condition for allowance, and request that the Examiner withdraw the outstanding rejections.

If there is any problem with this application, please call Adam Bell immediately at (415) 221-5581.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'A Bell', enclosed within a large, loopy circular flourish.

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